Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) P16507	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number 10/642,702	Filed 08/18/2003
on _____ Signature_____	First Named Inventor Vivek Jaiswal	
Typed or printed name _____	Art Unit 2141	Examiner Chirag R. Patel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
      Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☒ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 ___56,534___

/Richard S. Finkelstein/
Signature

Richard S. Finkelstein
Typed or printed name

(203) 972-4982
Telephone number

November 16, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐   *Total of _____ forms are submitted.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Vivek Jaiswal et. al.

Application No.: 10/642,702

Filing Date: 08/18/2003

For: DYNAMIC LOAD DISTRIBUTION
WITHIN A SESSION INITIATION
PROTOCOL NETWORK

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Confirmation No.: 4365
)
) Group Art Unit: 2141
)
) Examiner: Patel, Chirag R
)
) **ARGUMENTS IN SUPPORT OF PRE-**
) **APPEAL BRIEF REQUEST FOR**
) **REVIEW**
)
)
) Attorney Docket No.: P16507
)
) **PTO Customer Number 28062**
) Buckley, Maschoff & Talwalkar LLC
) Attorneys for Intel Corporation
) 50 Locust Avenue
) New Canaan, CT 06840

Mail Stop AF (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants submit the following arguments in support of the accompanying Pre-Appeal
Brief Request For Review.

Arguments begin on page 2 of this paper.

A R G U M E N T S

Appellants raise the following arguments as evidence of clear error in the outstanding final rejection of independent claims 1, 7, 14, and 19. Independent claims 1, 7, 14, and 19 each recite a Q-value where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call.

Claims 1, 7, 14, and 19 are rejected under 35 U.S.C. §103(a) as being anticipated by US Patent No. 7,197,556 ("Ton") in view of US Patent No. 6,790,445 ("O'Neill") and US Patent Application No. 2002/0141343 ("Bays"). However, the art of record is not seen to disclose or to suggest a Q-value for a first node where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call, and transmitting the Q-value to a second node via one or more load brokers where each load broker is a back-to-back user agent.

A. THE PRIOR ART FAILS TO DISCLOSE OR SUGGEST A Q-VALUE WHERE THE Q-VALUE IS AN INTEGER VALUE BASED ON BOTH (1) A CONTACT PRIORITY AND (2) A NUMBER OF CALLS OR AN AMOUNT OF INFORMATION BEING PROCESSED FOR A CALL

The Final Office Action concedes that Ton "fails to disclose a session initiation protocol and where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call." However, the Final Office Action states that "Bays discloses where the Q-value is an integer valued based on 1) contact priority. ([0053])" Appellants respectfully disagree.

At [0053], Bays discloses a fill priority that is defined as "an arbitrary integer value that specifies in what sequence a set of tiers should be utilized." The aforementioned tiers are defined in [0053] as a "pricing tier that consists of a tier number, peak level, billing type, billing rate (in

dollars)... and a fill priority for the given tier." Therefore, Bays discloses a priority associated with billing tiers but cannot be seen to disclose a contact priority.

Moreover, the Final Office Action fails to disclose BOTH (1) a contact priority and (2) a number of calls or an amount of information being processed for a call. The Office Action states that "(2) a number of calls or an amount of information being processed for a call" is disclosed in [0042] of Ton because "the load information could be the number of mobility bindings (i.e. the number of registered Mobile Nodes)". Appellants respectfully disagree because the Final Office Action fails to address the language of the claim. Specifically, the Final Office Action fails to address disclosing "a number of calls or an amount of information being processed for a call".

Ton discloses a Home Agent ("HA") that exchanges load information with other HAs. Specifically, Ton, at [0042], discloses that the load information "could be the number of mobility bindings and/or the CPU usage on the HA" but nowhere does Ton disclose that the load information comprises either a number of calls or an amount of information being processed for a call.

As stated in M.P.E.P §2143 "the prior art reference (or references when combined) must teach or suggest all the claim limitations." Since the Final Office Action fails to disclose BOTH (1) a contact priority and (2) a number of calls or an amount of information being processed for a call, the rejection under §103(a) is improper for at least this reason.

B. THE PRIOR ART FAILS TO DISCLOSE OR SUGGEST TRANSMITTING A Q-VALUE TO A NODE VIA ONE OR MORE LOAD BROKERS WHERE EACH LOAD BROKER IS A BACK-TO-BACK USER AGENT.

Ton, at [0042] discloses that the HAs receive all HA IP addresses on the network, and the IP addresses are stored locally by each HA. Furthermore, each HA will communicate with other HAs by using new messages to exchange load information with the other HAs. Since the HAs exchange load information directly (and not through an intermediary), Ton does not disclose the HAs exchanging load information via a load broker.

In view of the foregoing, nowhere can Ton be seen to disclose or to suggest transmitting a Q-value to a second node via one or more load brokers where each load broker is a back-to-back user agent. The remaining art is not seen to disclose or suggest the aforementioned deficiencies in Ton. Therefore, the rejection under §103(a) is improper for at least this reason.

C O N C L U S I O N

For at least the reasons given above, it is submitted that the final rejection of the application is improper and should be withdrawn. If any questions arise regarding the application or any of the cited references, or if the panel has suggestions for expediting allowance of the application, the panel is kindly invited to contact the undersigned via telephone at (203) 972-4982.

Respectfully submitted,

 November 16, 2007   /Richard S. Finkelstein/
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